stantiate their claim that such a law will shorten the time and lessen the expense of trials and will produce a class of jurors much superior to the average panel. The opponents of the bill make the claim that the remedy lies not in a change of laws but in a change in the conduct of the trial lawyers, trial judges, and citizens summoned to sit as jurors. They call attention to the fact that the proposed bill does not prevent full and complete examinations of veniremen as to their fitness to act as jurors, and that trial lawyers might extend such examinations as long as under the present conditions.

FRANK W. LUCAS.

Labor of Women and Children. During the closing days of the last session, congress appropriated $150,000 for an investigation into the industrial, social, moral, educational and physical conditions of woman and child workers in the United States. Special attention is to be given in this investigation to hours of labor, terms of employment, health, illiteracy, sanitary and other conditions surrounding their occupation, as well as the means employed for the protection of their health, person, and morals. The inquiry will be conducted under the supervision of the commissioner of labor.

Local Option. The crop of liquor bills for the current legislative sessions is as usual very large, affecting nearly every phase of the traffic in liquors. The States of Illinois, Colorado, New Jersey, Pennsylvania and South Carolina have considered, or are considering, general local option, and both Colorado and South Carolina have adopted it; the latter abandoning the experiment of the State dispensary. Residence district option modeled on the Ohio law, or ward option on the Indiana plan, is the chief aim of the anti-saloon elements in those States which already have township or county local option. New York is having a repetition of the struggle of last year for residence district or city ward option. Wisconsin, New Jersey and Illinois legislatures have each before them bills for residence district option, while bills prohibiting sale within certain districts near schools, churches and camps are pending in several States.

JOHN A. LAPP.

Mortgage Taxation. The question of mortgage taxation has caused and is still causing economists, the legislatures and the courts as well as the borrowers and lenders of money a vast amount of diffi-

culty. Within the last three or four years some of the best mortgage tax laws have been passed and within the same time many bills and resolutions have been introduced in the legislatures of the various States but have failed to be enacted into law.

In treating this subject it seems best, first to discuss briefly some important legislation that has been enacted within the last three or four years; second, to examine a few of the bills that have been up for consideration in the past and have been re-introduced in the present sessions; and third, to review pending legislation in Illinois, Iowa, Michigan, Minnesota, and Wisconsin.

In 1903, Alabama passed a law (Laws, 1903, p. 227–8) providing for a recording tax of fifteen cents on every one hundred dollars which is to be paid by the lender. In Wisconsin the present system of taxing mortgages as an interest in the real estate and allowing the mortgagor to contract with the mortgagee to pay all taxes on the incumbered premises was adopted in 1903. (Laws, 1903, c. 378.) In 1905 the New York legislature passed a law imposing an annual tax of five mills on the dollar (Laws, 1905, c. 729), and in 1906 this same law was repealed and another enacted requiring the mortgagee to pay a recording tax of fifty cents on every one hundred dollars or major portion thereof, to be paid but once and that at the time of recording. (Laws, 1906, c. 532.) The Constitution of Minnesota, which required that moneys and credits should be taxed was amended in 1905 and this provision left out. The amendment has resulted in one bill very similar to the present New York law and in another requiring a tax of three-tenths of one per cent on the amount unpaid on the first day of May.

At the last regular session (1905) in Illinois a bill was offered providing that a mortgage was not to be admitted in evidence in any court unless it was stamped with the assessor's stamp, showing that the taxes had been paid. A bill modeled after this one is up for consideration in Wisconsin at the present time. During the last session (1906) of the legislature of Iowa a bill was introduced to do away with double taxation in the case of mortgages and mortgaged real estate by taxing the mortgage as an interest in the incumbered property. Two bills for the same purpose are now before the legislature of that State.

Numerous attempts have been made to enact other laws but only those bills which have been introduced at the present sessions of the

legislatures in Illinois, Iowa, Michigan, Minnesota and Wisconsin will be considered here. In these States no less than thirteen bills have been introduced. Wisconsin leads with seven and each of the others have two except Michigan where nothing has as yet been done with regard to mortgage taxation at the present session.

Before reviewing the bills it might be well to consider the existing laws of these States. In Illinois, Iowa, Michigan and Minnesota mortgages are taxed as personal property; the mortgage is taxed to the holder at his place of residence and the mortgaged premises are taxed at their full value to the mortgagor at the situs of the property. In short, it is what is commonly known as the system of double taxation. This same plan prevailed in Wisconsin before the introduction of the existing law (1903, c. 378) which taxes mortgages as an interest in the real estate and permits contracting between the parties with regard to the payment of the taxes.

Under the present law in Wisconsin the mortgagee is practically exempt from taxation on the mortgage since the mortgagor usually pays the tax either with or without an agreement to that effect. Throughout the State there is a feeling, though not strong, that this is unjust, and that those best able to bear the tax are escaping. When the law was passed it was argued the mortgagor would do either one of two things. First, he would pay taxes only on his share of the mortgaged real estate, or second, he would agree to pay taxes on the mortgagee's interest as well as his own, providing that the money was loaned at a lower rate of interest. A recent investigation shows that the mortgagor usually pays the entire tax and that there has been no material change in the interest rate caused by the law. This is one of the reasons why so many bills have been introduced in Wisconsin during the present session. Some of these bills are very similar, both with regard to the object and wording, and a classification of them shows that the same result might have been obtained by three bills in place of seven. All of these bills may be classified as follows: First, bills to repeal the present law and enact the old law in force before 1903; second, bills drawn to aid the assessors in placing all taxable mortgages on the assessment rolls; third, a bill providing for a recording tax modeled after the New York laws of 1905 and 1906. Bills nos. 18 A, 20 A, 21 A and 78 S are practically the same when the end in view is considered. Each one would repeal the present law, which is similar to the Massachusetts law, and enact the old law as it

stands in the statutes of 1898, taxing mortgages as personal property. One bill (no. 78 S) also belongs in class two.

The old law was not enforced and some of the legislators are anxious to remove this defect if the old law is reënacted. Three bills, (nos. 247 A, 329 A and 78 S) have this end in view. One of the bills (247 A) is modeled after the Illinois bill of 1905 and states that all evidences of indebtedness must be exhibited to and stamped by the assessor as a proof that the tax has been paid if such evidence of indebtedness is taxable. Such security is not to be admitted in evidence in any court unless it bears the stamp or written memorandum of the assessor or board of review showing that the same has been assessed according to law. Another bill (no. 329 A) would have the presidents and cashiers of banks and similar corporations make out a sworn statement of all moneys loaned by them as agents or trustees. The bill introduced in the senate to repeal the present law (no. 78 S) goes a step further and would have all taxpayers make out a sworn statement of notes, bonds, mortgages, book accounts, and other credits owned by them on the first day of May. A mortgage subject to assessment and taxation cannot be foreclosed if it appears that it was not assessed and taxed every year while in force regardless of ownership. Bill no. 540 A is based on the recording tax law of New York, and would remedy in a measure the injustice of that law by providing that the amount of the tax should depend on the length of time for which the mortgage is to run. If the debt can be collected in a year or less the tax is to be two mills on the dollar. If the credit period is longer than one year then an additional mill is added for each year or fraction of a year. The tax thus imposed is deducted from the county tax levied against the assessment district where the mortgaged land is situated.

Two bills have been introduced in the legislature of Iowa. One of them (house file no. 4, senate file no. 83) has been introduced in both houses. It is an exact copy of the present Wisconsin law except that it is drawn to fit the Iowa code and conditions. The other bill (senate file no. 191) is somewhat like the Indiana law. It states that in the assessment of all real property, except property of corporations, the full amount of bona fide mortgages is to be deducted from the actual value of the real estate. Only what remains after the deduction is to be returned by the assessor for taxation. The mortgage is to be taxed in the name of the record owner and the assessment is to

constitute a lien on the mortgage until the tax is paid. The mortgagor or debtor may pay the taxes on the mortgage but such a payment is to be considered and treated as a payment on the indebtedness regardless of any stipulation in the mortgage to the contrary. If the tax is not paid, the mortgage may be sold, assigned to the purchaser and all rights to collect the same conveyed. This bill is unlike the Indiana law in the following respect: In Indiana the deduction is allowed only when the mortgagor agrees to state the amount of the mortgage and the name and residence of the mortgagee or assignee, and even then the deduction allowed cannot be more than one half of the value of the real estate or more than seven hundred dollars in any case.

Two bills have been offered in the senate of Minnesota. One of them (no. 111 S) is patterned after the present New York law. If it passes, mortgages will be exempt from local taxation and the mortgagee will pay a recording tax of fifty cents on every one hundred dollars or major portion thereof. No mortgage, whether owned by a person or corporation, a resident or non-resident, is to be exempt from this tax if it is secured by real property situated within the borders of the State. The tax is to be paid to the register of deeds before the mortgage is recorded. The register of deeds turns over the money received from this source to the county treasurer and he in turn sends one-fourth of this amount to the State treasurer and the remaining three-fourths is credited to the general fund of the county. The other bill (no. 225 S) would impose an annual tax of three-tenths of one per cent on the amount of the money or indebtedness remaining unpaid upon the first day of May. The register of deeds is required to make out a list of all unsatisfied mortgages and send it to the county auditor. The county auditor then makes out separate lists for each township, school district, village or city. When any payment, either total or partial is made, the same must be entered on the margin of the record. The mortgage cannot be foreclosed, neither can it be satisfied in whole or in part as long as any taxes on the same remain unpaid.

A bill (no. 157 H) introduced in Illinois provides that all real estate mortgages or other evidences of indebtedness shall be filed with the clerk of the county court in the county where the mortgaged land is situated and entered on the records for the purpose of taxation. The mortgage is also indorsed by the county clerk with the state-

ment "Duly entered for taxation" together with the date of listing and filing. No mortgage can be recorded by the circuit clerk or recorder unless it bears the endorsement of the county clerk. Once each year, the county clerk is required to make out a statement of mortgages and assignments to the township assessors and they fix the value of the instrument for taxation. Michigan had a law similar to this bill as early as 1887. At the present time Kentucky, Minnesota, Missouri, Montana and Utah have similar laws. It is true, nevertheless, that none of these States have anything like §11 of the Illinois bill, which provides that if the mortgagee or holder of the mortgage is a non-resident of the State and refuses to pay all taxes on the mortgage, the mortgagor "may pay such taxes and recover of the holder of such indebtedness ten times the amount of the taxes so paid, with costs and reasonable attorney's fees in enforcing the same." This part of the bill is modeled after the Delaware law which states that when the creditor is a non-resident of the county or State, the debtor may pay the tax on the debt and deduct the amount from the interest due or accruing, and no debtor shall make any payment to his creditor out of the State until the tax imposed upon his debt has been paid. (Laws, 1897, c. 381, amended by laws 1898, c. 25, sec. 7). Another bill (no. 693 H) introduced by the same assemblyman incorporates bill no. 157 H and changes §11 so that it states that taxes unpaid by the mortgagee whether a resident or a non-resident shall become a lien on the mortgaged property and may be paid by the person owing such indebtedness. The mortgagor shall then have credit on the next installment of interest or principal due, for three times the amount so paid. A new section is added, stating that the owner of mortgaged real estate may have the amount of such mortgage indebtedness existing and unpaid on the first day of April of any year, deducted from the assessed valuation of the mortgaged premises for that year and the amount remaining after such deduction shall form the basis for assessment and taxation for the real estate for that year; provided, that no deduction shall be allowed greater than one-half of such assessed valuation of said real estate. This bill is modeled after the present Indiana law, §12 of the bill being practically the same as §8417 of the Indiana Supplement, 1905, except that the limit of seven hundred dollars is not imposed. If this bill is enacted into law, every intelligent mortgagor will ask for the deduction allowed because the mortgage is taxed to the mortgagee as personal property whether the debtor asks for the deduction or not.

If these bills were classified according to contents and purpose and not according to States some bills would fall into two classes and we would have the following results:

1. To repeal the existing law and re-enact the old law: four in Wisconsin, 18 A, 20 A, 21 A and 78 S.
2. For a more complete assessment of mortgages as personal property: one in Minnesota, 225 S; two in Illinois, 157 H and 693 H; three in Wisconsin, 78 S, 247 A and 329 A.
3. For recording tax: one in Minnesota, 111 S; one in Wisconsin, 540 A.
4. For a personal property tax but allowing the mortgagor to make deductions, the Indiana system: one in Illinois, 693 H.; one in Iowa, 191 S.
5. For the system of taxing mortgages as an interest in the real estate, the Wisconsin system: one in Iowa, 4 H., 83 S.
6. For an annual tax: one in Minnesota, 225 S.

ROBERT CAMPBELL.

Reciprocal Demurrage. This subject which has come into prominence in very recent years, is attracting considerable attention at the present sessions of the States legislatures. The failure of the railroad companies to furnish reasonably adequate service for transportation has aroused the people to an attempt to compel them to supply cars for transporting products upon reasonable notice. Such legislation becomes of real importance only in those States where a large part of the commerce is intra-State. The decision of the United States Supreme Court in April, 1906 (Houston and Texas Central Railroad Co. v. Mayes, 201 U. S. 321) which declared that the attempt to compel railroad companies to furnish cars for inter-state commerce is a violation of the interstate commerce clause of the Constitution, has rendered such laws ineffective in many States. In those States which have a large volume of intra-state commerce, such as Illinois, and New York, a reciprocal demurrage law could quite effectually accomplish the desired ends. In these two States bills proposing to penalize railroad companies for failure to furnish cars after reasonable notice, are being agressively pushed. Bills are also before the legislatures of Wisconsin, Iowa, Minnesota, Michigan, North Dakota, South Dakota, Pennsylvania and Indiana. These all embody some of the main features of reciprocal demurrage by requiring cars to be furnished and to